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MTC Resolution No. 4116
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METROPOLITAN
TRANSPORTATION
COMMISSION

New Freedom Cycle 5 Program Guidelines for Large Urbanized Areas

September 2013

**METROPOLITAN TRANSPORTATION COMMISSION
NEW FREEDOM CYCLE 5 PROGRAM GUIDELINES
FOR LARGE URBANIZED AREAS**

September 2013

The following guidelines are excerpted from Federal Transit Administration (FTA) Circular C 9045.1, the *New Freedom Program Guidance and Application Instructions*, except where modified to meet the region's needs or where additional clarification is provided. The FTA Circular is available at www.fta.dot.gov/laws/circulars/leg_reg_6624.html. MTC's Program Management Plan for New Freedom can be found at http://www.mtc.ca.gov/funding/FTA/RES-3986_approved.pdf.

1. **INTRODUCTION.** In March 2013, MTC completed and adopted an updated Coordinated Public Transit – Human Services Transportation Plan (Coordinated Plan). Pursuant to federal requirements, projects funded through the New Freedom program and two other FTA programs (Section 5316 Job Access Reverse Commute program and Section 5310 Elderly Individuals and Individuals with Disabilities) must be derived from a Coordinated Plan. FTA describes the Coordinated Plan as a “unified, comprehensive strategy for public transportation service delivery that identifies the transportation needs of individuals with disabilities, older adults, and individuals with limited income, laying out strategies for meeting these needs, and prioritizing services.”

In the 2013 update to the Bay Area's Coordinated Plan, in addition to considering which projects or solutions could directly address transportation gaps for seniors, low-income persons and persons with disabilities, the planning effort also considered how best to coordinate services so that existing resources can be used as efficiently as possible. One of the key coordination strategies was to strengthen mobility management throughout the Bay Area, by:

- Identifying and designating Consolidated Transportation Service Agencies (CTSAs) to facilitate subregional mobility management and transportation coordination efforts
- Providing information and managing demand across a family of transportation services
- Coordinating advocacy with human service agencies to identify resources to sustain coordinated transportation service delivery

As recommended in the Coordinated Plan Update, **MTC is prioritizing the New Freedom Cycle 5 funds for implementing projects and activities consistent with the mobility management strategies detailed in Chapter 8 of the plan, available at www.mtc.ca.gov/planning/pths/.**

All activities that meet federal eligibility requirements, as described in section 9 below, are eligible to receive funding in this call for projects, including mobility management, operations and capital projects; however, in the New Freedom Cycle 5 application form and scoring criteria, there is increased emphasis on mobility management and coordination. Refer to Chapters 7 & 8, and Appendix C of the Coordinated Plan, available at www.mtc.ca.gov/planning/pths/, for several examples of mobility management projects.

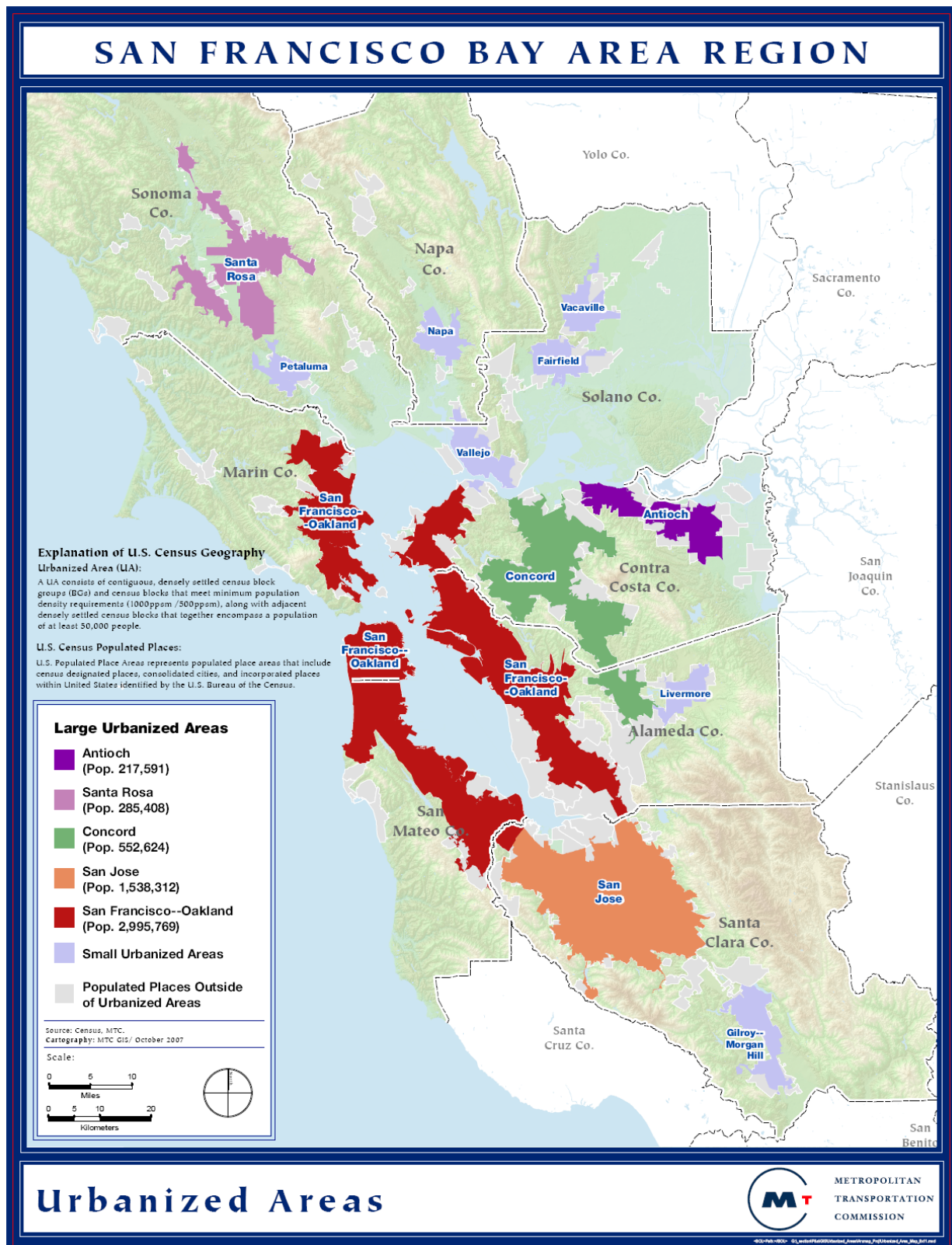
A variety of mobility management activities are currently taking place throughout the Bay Area. Some efforts are well-developed, while others are in their infancy. In areas where mobility management activities are well-developed, applicants are encouraged to consider how their project can be coordinated with existing efforts, and/or how existing efforts can be maintained or expanded. In areas where mobility management activities are just beginning and/or are taking place in a fragmented manner, applicants are encouraged to consider how existing activities can be better coordinated or enhanced.

Even those applicants who are not proposing a mobility management project per se are encouraged to consider how their project might be better coordinated with local mobility management efforts and/or other transportation services in the area. For example, an applicant with an operations project should aim to have that service be part of a coordinated “family of transportation services,” by participating in any local coordination activities that are available (e.g., information and referrals, shared driver training).

2. **STATUTORY AUTHORITY.** The New Freedom Program is authorized under the provisions set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA–LU), enacted on August 10, 2005, as codified at 49 U.S.C. 5317. The Secretary may make grants to recipients for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.
3. **PROGRAM GOAL.** The New Freedom formula grant program aims to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. According to the FTA Circular, the 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The New Freedom formula grant program seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA of 1990.
4. **FUNDING APPORTIONMENT AND AVAILABILITY.** New Freedom funds are first apportioned 60 percent to large urbanized areas¹ (UAs), 20 percent to small UAs, and 20 percent to non-UAs. Funds are then apportioned to all designated recipients for an area type by the ratio of the number of disabled individuals in the designated recipient’s area to the total number of disabled individuals for that area type. **Figure 1** shows the Bay Area’s five large UAs and seven small UAs. (Note that the names given to the urbanized areas correspond to the most populated city/cities within the area, and that the urbanized areas themselves are larger than the cities for which they are named.) **Table 1** shows large UA apportionments for FYs 2006 through 2012. Funds are available to the region for obligation

¹ An urbanized area is an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. Large urbanized areas as used in the context of FTA formula grant programs are urbanized areas with a population of greater than 200,000, and small urbanized areas are those with a population of at least 50,000 but less than 200,000.

Figure 1. Map of Urbanized Areas



during the fiscal year of apportionment plus two additional years. MTC has established a project delivery requirement that project sponsors must expend the New Freedom funds within three years of the FTA grant award or execution of subrecipient agreement with MTC, whichever is applicable.

Table 1. New Freedom Program Apportionments

Area	Past Calls for Projects						Current Call for Projects
	Cycle 1	Cycle 2	Cycle 3		Cycle 4		Cycle 5
	Actual FY 2006	Actual FY 2007	Actual FY 2008	Actual FY 2009	Actual FY 2010	Actual FY 2011	Actual FY 2012
Bay Area Large UA	\$1,545,232	\$1,612,117	\$1,741,484	\$2,007,374	\$1,970,119	\$1,980,295	\$2,003,313
Antioch	\$56,232	\$60,601	\$65,464	\$75,459	\$74,058	\$74,441	\$75,306
Concord	\$127,429	\$121,779	\$131,551	\$151,636	\$148,822	\$149,591	\$151,329
S.F.-Oakland	\$885,254	\$950,208	\$1,026,459	\$1,183,180	\$1,161,221	\$1,167,218	\$1,180,786
San Jose	\$404,370	\$399,440	\$431,494	\$497,374	\$488,143	\$490,665	\$496,368
Santa Rosa	\$71,947	\$80,089	\$86,516	\$99,725	\$97,875	\$98,380	\$99,524

UA = Urbanized Area

- 5. ROLE OF THE DESIGNATED RECIPIENTS.** MTC is the designated recipient for the Bay Area's large UA funding apportionment, and Caltrans is the designated recipient for California's small and non-UA funding apportionments. The designated recipient is responsible for conducting the competitive selection process to determine which projects should receive funding. For the large UA apportionment, the competitive selection is conducted on a region-wide basis. For the small and non-UA apportionment, the competitive selection is conducted by Caltrans on a statewide basis.

Once projects are selected in the large UA competitive process, transit operators with selected projects that are FTA grantees (i.e., transit operators that are direct recipients under Section 5307 and typically receive funds directly from FTA) must submit their own New Freedom grants to FTA and serve as direct recipients of the funds. To prevent the funds from lapsing on the September 30, 2014 federal obligation deadline, MTC reserves the right to reprogram funds if direct recipients fail to submit their FTA grant by July 31, 2014. Direct recipients are responsible for carrying out the terms of their grants.

MTC will serve as the direct recipient of New Freedom funds for transit operators or public entities that are not FTA grantees, and for non-profits that are selected in the large UA competitive process, subject to the restrictions included in sections 7 and 9 below. These agencies and organizations will enter into a subrecipient relationship with MTC through the execution of funding agreements with MTC. MTC will monitor subrecipient compliance with federal requirements through inclusion of such requirements in funding agreements and through ongoing monitoring activities.

- 6. FUNDING DISTRIBUTION.** Projects may compete for funding that is apportioned to the UA in which the project will provide services. Projects that will provide services in multiple UAs may compete for funding from all of the affected UAs. This call for projects is for large UAs only.

Large UA Programming Targets. Cycles 1 through 4 programmed the FY2006 through FY2011 apportionments. The total funding available for the Bay Area's large UAs in Cycle 5 is approximately \$1.8 million. This consists of the FY2012 apportionments, less a five percent set-aside for program administration and an additional five percent set-aside for a Mobility Management Roadmap study.² The target programming amount for each large UA is shown in **Table 2**. There is no minimum or maximum grant request, except that applicants should not request more than the target amount for the large UAs in which their projects will provide services.

Table 2. Programming Targets for New Freedom Program Cycle 4

Area	Cycle 5 Targets
Bay Area Large UA	\$1,802,982
Antioch	\$67,775
Concord	\$136,196
San Francisco-Oakland	\$1,062,707
San Jose	\$446,731
Santa Rosa	\$89,572

UA = Urbanized Area

Small and Non-UA Programming Targets. The small and non-UA calls for projects are conducted by Caltrans. The last small and non-UA call for projects took place in winter 2012. Additional information about the small and non-UA New Freedom program can be found on the Caltrans website: <http://www.dot.ca.gov/hq/MassTrans/5317.html>

7. **ELIGIBLE RECIPIENTS/SUBRECIPIENTS.** There are three categories of eligible recipients/subrecipients of New Freedom funds: a) private non-profit organizations; b) state or local governmental authorities; and c) operators of public transportation services. Private operators of public transportation services are only eligible for Bay Area large UA New Freedom funds if they partner with an FTA grantee transit operator that is willing to serve as the direct recipient of the funds and pass through the funds to the private operator.

All recipients/subrecipients will be required to have a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number and provide it during the application process.³ A DUNS number may be obtained from D&B by telephone (866-705-5711) or the Internet (<http://fedgov.dnb.com/webform>).

8. **ROLE OF RECIPIENTS/SUBRECIPIENTS.** New Freedom recipients/subrecipients' responsibilities include:
- For direct recipients (transit operators who are FTA grantees), submitting a grant application to FTA and carrying out the terms of that grant;
 - Meeting program requirements and grant/funding agreement requirements including, but not limited to, Title VI reporting requirements;

² The federal New Freedom guidance allows MTC to use up to 10 percent of the total fiscal year New Freedom apportionment to fund program administration costs including administration, planning and technical assistance.

³ A Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number is a unique, non-indicative 9-digit identifier issued and maintained by D&B that verifies the existence of a business entity. The DUNS number is a universal identifier required for Federal financial assistance applicants, as well as recipients and their direct subrecipients.

- Making best efforts to execute selected projects; and
- Complying with other applicable local, state, and federal requirements.

9. ELIGIBLE ACTIVITIES.

- a. General. New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. “New” service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the STIP. In other words, if not for the New Freedom Program, the project would not have consideration for funding, and the proposed service enhancements would not be available for individuals with disabilities. Recipients or subrecipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as “new” and then receive New Freedom funds for those services.

Both new public transportation services and new public transportation alternatives are required to go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation and assisting persons with disabilities with transportation, including transportation to and from jobs and employment services.

- b. Mobility Management Emphasis. Consistent with the Bay Area’s Coordinated Plan, New Freedom Cycle 5 will prioritize projects and activities consistent with the mobility management strategies detailed in Chapter 8 of the plan, available at www.mtc.ca.gov/planning/pths/.

All activities that meet federal eligibility requirements are eligible to receive funding in this call for projects, including mobility management, operations and capital projects; however, in the application form and scoring criteria, there is increased emphasis on mobility management and coordination.

- c. Illustrative List of Eligible Activities. Following is an illustrative list of activities that are eligible for funding under New Freedom:

New Public Transportation Services Beyond the ADA

- Enhancing paratransit beyond minimum requirements of the ADA
- Feeder services
- Making accessibility improvements to transit and intermodal stations not designated as key stations under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station
- Travel training

- New and expanded fixed route and demand responsive transit service planned for and designed to meet the needs of individuals with disabilities⁴

New Public Transportation Alternatives Beyond the ADA

- Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs. Note: Due to the complex nature of federal vehicle procurement projects, and MTC's limited expertise in this area, private non-profit organizations and private operators of public transportation services may only apply for Bay Area large UA New Freedom funds to purchase vehicles if they partner with an FTA grantee transit operator that is willing to serve as the direct recipient of the funds. The transit operator would be responsible for submitting the grant to FTA and carrying out the terms of the grant, including monitoring the non-profit organization or private operator's compliance with all federal requirements.
- Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers
- Supporting new volunteer driver and aide programs
- Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation

Refer to Appendix 1 for additional requirements pertaining to the above examples. The list is not intended to be exhaustive. Applicants are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities, considering the transportation needs, proposed solutions, and enhanced coordination strategies identified in the Bay Area's Coordinated Public Transit-Human Services Transportation Plan (see Section 1 and Section 11).

10. FEDERAL/LOCAL MATCHING REQUIREMENTS.

- a. General. New Freedom funds may be used to finance capital and operating expenses. The Federal share of eligible capital and planning costs may not exceed 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity.

The local share of eligible capital costs shall be no less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be no less than 50 percent of the net operating costs. All of the local share must be provided from sources other than federal Department of Transportation (DOT) funds. Some examples of sources of local match which may be used for any or all of the local share include: state or local appropriations; other non-DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; and net income generated from advertising and concessions. Non-cash share such as donations, volunteer services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

⁴ FTA originally said that these activities were not eligible for New Freedom funding; however, on April 29, 2009, the FTA issued a notice of policy statement in the Federal Register, announcing that it had revised its interpretation of the New Freedom circular to say that these activities are eligible for New Freedom funding. See *Federal Register* Vol. 74, No. 81, pages 19624-19627.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for New Freedom operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service.

- b. Exceptions. The Federal share is 90 percent for vehicle-related equipment and facilities required by the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA). It is only the incremental cost of the equipment or facility required by the CAA or ADA that may be funded at 90 percent, not the entire cost of the vehicle or facility, even if the vehicle or facility is purchased for use in service required by the ADA or CAA.
Applicants wishing to apply for assistance at the higher match ratio should inform MTC before submitting an application, as MTC would need to consult the FTA regional office for further guidance regarding methods of computing the incremental cost.

- c. Use of Other Federal Funds. Local match may be derived from other federal programs that are eligible to be expended for transportation, other than funds from DOT programs. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. To be eligible for local match for FTA funds, the other federal funds must be used for activities included in the total net project costs of the FTA grant. Expenditure of other federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant. Specific program information for other types of Federal funding is available at www.unitedweride.gov.

- d. Mobility Management as an Eligible Capital Expense. According to the New Freedom circular (FTA C 9045.1), mobility management is an eligible capital cost, which means that the federal share may not exceed 80 percent of the net cost of the activity. In order to be eligible for that higher federal share (80 percent rather than the typical 50 percent), the project must meet FTA's definition of mobility management, which can be found in Appendix 1 or in the New Freedom Circular Chapter III, Section 11.b.(4). The New Freedom Circular is available at http://www.fta.dot.gov/documents/FTA_C_9045.1_New_Freedom%281%29.pdf

- 11. COORDINATED PLANNING. SAFETEA requires that projects selected for funding under the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC), and New Freedom programs be "derived from a locally developed, coordinated public transit-human services transportation plan", and that the plan be "developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public." A locally developed, coordinated, public transit-human services transportation plan ("coordinated plan") identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, and provides strategies for meeting those local needs. The Bay Area's Coordinated Plan was updated in March 2013 and is available at <http://www.mtc.ca.gov/planning/pths/>.

Agencies and organizations interested in applying for New Freedom funds must consider the transportation needs, proposed solutions, and enhanced coordination strategies presented in

the Coordinated Plan in developing their project proposals. Applicants will be asked to demonstrate their proposed project's consistency with the Coordinated Plan. Following is a list of the solutions and strategies that are identified in Chapters 7 and 8, respectively, of the plan.

Solutions to Gaps

1. Mobility management, travel training, and transportation coordination activities
2. Additions or improvements to paratransit that exceed ADA requirements, and demand-responsive services other than ADA paratransit
3. Additions or improvements to public transit services and transit access
4. Solutions to address affordability barriers

Strategies to Enhance Coordination of Service Delivery

1. Strengthen mobility management in the Bay Area, by:
 - a. Identifying and designating Consolidated Transportation Service Agencies (CTSAs) to facilitate subregional mobility management and transportation coordination efforts
 - b. Providing information and managing demand across a family of transportation services
 - c. Promoting coordinated advocacy with human service agencies to identify resources to sustain ongoing coordination activities
2. Promote walkable communities, complete streets, and integration of transportation and land use decisions

12. **APPLICATION FORMS AND TECHNICAL ASSISTANCE.** The application form will be available at http://www.mtc.ca.gov/funding/new_freedom.htm.

13. **APPLICATION EVALUATION.** Following an initial eligibility screening by MTC staff, eligible projects will be evaluated by a panel consisting of Bay Area representatives of disabled population interests and MTC staff. Applications will be evaluated based on the following criteria:

Need and Benefits	(maximum 40 points)
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Extent to which project addresses critical needs for disabled individuals as identified in the Coordinated Plan

Effectiveness at mitigating or eliminating transportation barriers for disabled individuals

Extent to which project promotes integration of disabled individuals into the work force and their full participation in society

Extent to which project could only be funded by New Freedom Program or federal human service grant programs

Extent to which project provides additional benefits

Coordination, Partnership, & Outreach	(maximum 40 points)
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Extent of coordination with other affected transportation systems, providers, and services, and with related social service programs (Note: all applicants are encouraged to coordinate with those agencies and organizations that have already initiated mobility management

activities in their service area, if applicable; non-transit operators are strongly encouraged to coordinate with transit operators in their service area; transit operators are strongly encouraged to coordinate with non-profit organizations and human service agencies that serve persons with disabilities.)

Extent to which project advances the development and implementation of coordinated transportation services

Extent to which specific coordination activities are expected to result in better utilization of and access to resources (e.g., vehicle will be used an additional X hours per week; productivity will increase from X passengers per hour to Y passengers per hour)

Extent of community support

Thoroughness of plan for marketing the project to beneficiaries

Project Readiness	(maximum 20 points)
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Reasonableness and completeness of funding plan

Project sustainability beyond the grant period

Thoroughness of implementation plan and reasonableness of project schedule

Ability to use New Freedom grant to leverage additional resources

Sponsor's experience in managing services for disabled individuals

How project fits into a larger program with well-defined goals, objectives, and performance standards

Sponsor's institutional capacity to manage the project

Sponsor's history of managing federal transportation funds

14. **TIMELINE.** The anticipated timeline for Cycle 5 is as follows:

Release Call for Projects	End of September 2013
Outreach	Oct/Nov 2013
Applicant Workshop at MTC	Fall 2013
Project Applications Due to MTC	January 2014
Project Selection	Jan.-Feb. 2014
Commission Actions: Program Adoption and add projects to TIP	March 2014
Grant preparation by MTC and Direct Recipients	April/May 2014
Grant review by FTA	Spring/Summer 2014
Contract development between MTC and Subrecipients	Begin after FTA grant approval (estimated Summer/Fall 2014)

15. COMPLIANCE WITH FEDERAL REQUIREMENTS. Applicants should be prepared to abide by all applicable federal requirements as specified in 49 U.S.C. Section 5317, FTA Circulars C 9045.1 and 4702.1A, the most current FTA Master Agreement MA(13), and the most current Certifications and Assurances for FTA Assistance Programs.

MTC includes language regarding these federal requirements in its funding agreements with subrecipients and requires each subrecipient to execute a certification of compliance with the relevant federal requirements. Subrecipient certifications are required of the subrecipient prior to the execution of a contract by MTC and annually thereafter when FTA publishes the annual list of certifications and assurances.

Direct recipients are responsible for adhering to FTA requirements through their agreements and grants with FTA directly.

16. REPORTING REQUIREMENTS. Subrecipients to MTC will be required to submit quarterly reports to MTC on the following:
- a. Budget or schedule changes, if any
 - b. Progress toward meeting milestones
 - c. Quantitative or qualitative information, as available, on the following measures:
 - (a) Services provided that impact availability of transportation services for individuals with disabilities as a result of the project for the reporting period;
 - (b) Additions or changes to environmental infrastructure, technology, vehicles that impact availability of transportation services as a result of the project for the reporting period;
 - (c) Actual or estimated rides (as measured by one-way trips) provided for individuals with disabilities as a result of the project for the reporting period
 - d. Financial status report
 - e. Disadvantaged Business Enterprise (DBE) participation as applicable.

Direct recipients of New Freedom funds with active grants will be required to submit quarterly reports to FTA on the progress of their projects.

Detailed quarterly reporting requirements will be included in the funding agreement (if sponsor is a subrecipient to MTC) or in the FTA grant (if sponsor is a direct grantee with FTA).

Both direct recipients and subrecipients of New Freedom funds will be required to participate in FTA's annual Job Access and Reverse Commute (JARC) and New Freedom reporting, in which performance measures will be collected.

17. TITLE VI.

In connection with MTC's Title VI monitoring obligations, as outlined in FTA Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients, ("Title VI Circular"), issued on October 1, 2012 and as documented in MTC's

Program Management Plan for JARC and New Freedom (available at http://www.mtc.ca.gov/funding/JARC-New_Freedom/JARC-NF_PMP.htm), applicants will be required to provide the following information:

- The organization's policy regarding Civil Rights (based on Title VI of the Civil Rights Act) and for ensuring that benefits of the project are distributed equitably among minority population groups in the project's service area.
- Information on whether the project will provide assistance to predominantly minority populations. (Projects are classified as providing service to predominantly minority populations if the proportion of minority persons residing in the project's geographic service area exceeds the average proportion of minority persons in the region.)

In order to document that JARC and New Freedom funds are passed through without regard to race, color or national origin, and to document that minority populations are not being denied the benefits of or excluded from participation in the JARC and New Freedom programs, MTC will prepare and maintain the following information, as required by the Title VI Circular, Chapter VI(6):

- a. A record of funding requests received from private non-profit organizations, State or local governmental authorities, and Indian tribes. MTC's records will identify those applicants that would use grant program funds to provide assistance to predominantly minority populations and indicate whether those applicants were accepted or rejected for funding.
- b. A description of how MTC develops its competitive selection process or annual program of projects submitted to FTA as part of its grant applications. The description will emphasize the method used to ensure the equitable distribution of funds to subrecipients that serve predominantly minority populations, including Native American tribes, where present.
- c. A description of MTC's criteria for selecting entities to participate in an FTA grant program.

MTC requires that all JARC and New Freedom subrecipients submit all appropriate FTA certifications and assurances to MTC prior to funding agreement execution and annually thereafter when FTA publishes the annual list of certifications and assurances. MTC will not execute any funding agreements prior to having received these items from the selected subrecipients. MTC, within its administration, planning, and technical assistance capacity, also will comply with all appropriate certifications and assurances for FTA assistance programs and will submit this information to the FTA as required.

The certifications and assurances pertaining to civil rights include:

1. Nondiscrimination Assurances in Accordance with the Civil Rights Act
2. Documentation Pertaining to Civil Rights Lawsuits and Complaints

Nondiscrimination assurances included above involve the prohibition of discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibit discrimination in

employment or business opportunity, as specified by 49 U.S.C. 5332 (otherwise known as Title VI of the Civil Rights Act of 1964), as amended (42 U.S.C. 2000d et seq.) and U.S. DOT regulations, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act, 49 C.F.R. Part 21. By complying with the Civil Rights Act, no person, on the basis of race, color, national origin, creed, sex, or age, will be excluded from participation in, be denied the benefits of any program for which the subrecipient receives federal funding via MTC.

As a condition of receiving Federal Transit Administration JARC or New Freedom program funds, subrecipients must comply with the requirements of the US Department of Transportation's Title VI regulations. The purpose of Title VI is to ensure that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Subrecipients are also responsible for ensuring compliance of each of their subrecipients (if any), including collecting Title VI Programs, and for ensuring that their third-party contractors are complying with Title VI and the subrecipient's Title VI Program. (See FTA C 4702.1B Chapter II (6) and Appendix L, Scenario Three.)

Title VI Programs

All JARC and NF subrecipients must submit Title VI Programs to MTC. Title VI Programs will be required with the submission of the standard agreement and annually thereafter with the submission of the annual FTA certifications and assurances.

Every Title VI Program shall include the following information (Note: detailed instructions on the following Title VI requirements are available in FTA C 4702.1B, Chapter III-2 through III-12):

- (1) A copy of the subrecipient's Title VI notice to the public that indicates the subrecipient complies with Title VI, and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted. A sample Title VI notice is in FTA C 4702.1B, Appendix B. Subrecipients may choose to adopt MTC's notice to beneficiaries where appropriate.
- (2) A copy of the subrecipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form. Sample complaint procedures are in FTA C 4702.1B, Appendix C, and a sample Title VI complaint form is in FTA C 4702.1B, Appendix D. Subrecipients may choose to adopt MTC's complaint procedures and complaint form where appropriate.
- (3) A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the subrecipient since the time of the last submission. See FTA C 4702.1B, Appendix E for an example of how to report this information. This list should include only those investigations, complaints, or lawsuits that pertain to allegations of discrimination on the basis of race, color, and/or national origin in transit-related activities and programs and that pertain to the subrecipient submitting the report, not necessarily the larger agency or department of which the subrecipient is a part.

- (4) A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission. A subrecipient's targeted public participation plan for minority populations may be part of efforts that extend more broadly to include other constituencies that are traditionally underserved, such as people with disabilities, low-income populations, and others. Subrecipients may choose to adopt MTC's public participation plan where appropriate.
- (5) A copy of the subrecipient's plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance. Subrecipients may choose to adopt MTC's language assistance plan where appropriate. Operational differences between MTC and the subrecipient may require, in some instances, that the subrecipient tailor its language assistance plan.
- (6) Subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the subrecipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils.
- (7) Those subrecipients who are also primary recipients (i.e., those who have their own subrecipients) shall include a narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions.
- (8) If the subrecipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., the subrecipient shall include a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility.
- (9) Additional information as specified in FTA C 4702.1B chapters IV, V, and VI, depending on whether the subrecipient is a fixed route transit provider, a State, or an MPO.

The Title VI Program must be approved by the subrecipient's board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to MTC. Subrecipients shall submit a copy of the board resolution, meeting minutes, or similar documentation with the Title VI Program as evidence that the board of directors or appropriate governing entity or official(s) has approved the Title VI Program.

Appendix 1

New Freedom Program – Eligible Activities

The following list of eligible activities, excerpted from Federal Transit Administration (FTA) Circular C 9045.1, the *New Freedom Program Guidance and Application Instructions*, and Federal Register Vol. 74, No. 81, the *Notice of Policy Statement for Eligible New Freedom Projects* dated April 29, 2009, is intended to be illustrative, not exhaustive. Applicants are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities, considering the transportation needs, solutions, and strategies for enhanced coordination in the Bay Area's Coordinated Public Transit-Human Services Transportation Plan (see Section 9 of MTC's New Freedom Program Guidelines).

New Public Transportation Services Beyond the ADA*	
Enhancing paratransit beyond minimum requirements of the ADA	<p>ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of “new:”</p> <ul style="list-style-type: none"> ▪ Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA; ▪ Expansion of current hours of operation for ADA paratransit services that are beyond those provided on fixed-route services; ▪ Incremental cost of providing same day service; ▪ Incremental cost of making door-to-door service available to all eligible ADA paratransit riders, but not as a reasonable modification for individual riders in an otherwise curb-to-curb system; ▪ Enhancement of the level of service by providing escorts or assisting riders through the door of their destination; ▪ Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for common wheelchairs under the ADA and labor costs of aides to help drivers assist passengers with over-sized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600 lb design load, and the acquisition of heavier-duty vehicles for paratransit and/or demand-response service; and ▪ Installation of additional securement locations in public buses beyond what is required by the ADA.
Feeder services	New “feeder” service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations, for which complementary paratransit service is not required under the ADA.

New Public Transportation Services Beyond the ADA* (continued)	
Making accessibility improvements to transit and intermodal stations not designated as key stations	<p>Improvements for accessibility at existing transportation facilities that are not designated as key stations established under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station, so long as the projects are clearly intended to remove barriers that would otherwise have remained. New Freedom funds are eligible to be used for new accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail and rapid rail. This may include:</p> <ul style="list-style-type: none"> ▪ Building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, accessible pedestrian signals or other accessible features, ▪ Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA, ▪ Improving signage, or wayfinding technology, or ▪ Implementation of other technology improvements that enhance accessibility for people with disabilities including Intelligent Transportation Systems (ITS).
Travel training	New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

New Public Transportation Services Beyond the ADA* (continued)	
New and expanded fixed route and demand responsive transit service planned for and designed to meet the needs of individuals with disabilities	<p>New or expanded fixed route service and new or expanded demand response service which constitute new public transportation services beyond those required by ADA of 1990 (42 U.S.C. Section 12101 et seq.) that assist individuals with disabilities with transportation, and are therefore eligible for funding under the New Freedom program, provided that these services: (1) Are identified in the grant applicant's coordinated public transit human services transportation plan; (2) Are available to the public at large but were planned and designed to meet the mobility needs of individuals with disabilities in response to circumstances where existing fixed route and demand response transportation is unavailable or insufficient to meet the mobility needs of individuals with disabilities; (3) Were not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP); and (4) Are not designed to allow an agency to meet its obligations under the ADA or the DOT ADA implementing regulations at 49 CFR parts 37 and 38. Examples of such services would be:</p> <ul style="list-style-type: none"> ▪ A fixed route service that is open to the general public but that is extended to serve a congregate living facility or a workplace serving large numbers of individuals with disabilities; or ▪ A demand response service that is available to the general public but whose service coverage or span of service is designed in response to mobility needs expressed by individuals with disabilities. <p>FTA notes that expanded fixed route service may result in expanded ADA complementary paratransit service; since the ADA complementary paratransit service is required under the ADA, it would not be eligible for New Freedom funding. All new or expanded fixed route and demand responsive services funded under the New Freedom program will be subject to the requirements of the ADA and DOT ADA implementing regulations.</p>

New Public Transportation Alternatives Beyond the ADA*	
Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs.	New Freedom funds can be used to purchase and operate accessible vehicles for use in taxi, ridesharing and/or van pool programs provided that the vehicle has the capacity to accommodate a passenger who uses a “common wheelchair” as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meeting the same requirements for lifts, ramps and securement systems specified in 49 CFR part 38, subpart B. Due to the complex nature of federal vehicle procurement projects, and MTC’s limited expertise in this area, private non-profit organizations and private operators of public transportation services may only apply for Bay Area large UA New Freedom funds to purchase vehicles if they partner with an FTA grantee transit operator that is willing to serve as the direct recipient of the funds. The transit operator would be responsible for submitting the grant to FTA and carrying out the terms of the grant, including monitoring the non-profit organization or private operator’s compliance with all federal requirements.
Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers.	This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Only new voucher programs or expansion of existing programs are eligible under the New Freedom Program. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The New Freedom Program can provide vouchers to individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on pre-determined rates or contractual arrangements. Transit passes for use on existing fixed route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match.
Supporting new volunteer driver and aide programs.	New volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, and other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs. The costs of new enhancements to increase capacity of existing volunteer driver programs are also eligible. FTA notes that any volunteer program supported by New Freedom must meet the requirements of both “new” and “beyond the ADA.” FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.

New Public Transportation Alternatives Beyond the ADA* (continued)	
Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.	<p>Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive New Freedom funding to support the administrative costs of sharing services it provides to its own clientele with other individuals with disabilities and coordinate usage of vehicles with other non-profits, but not the operating costs of the service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:</p> <ul style="list-style-type: none"> ▪ The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low-income individuals; ▪ Support for short term management activities to plan and implement coordinated services; ▪ The support of State and local coordination policy bodies and councils; ▪ The operation of transportation brokerages to coordinate providers, funding agencies and customers; ▪ The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers; ▪ The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and ▪ Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System Technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

* "New" service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the State TIP. In other words, the project would not have consideration for funding and the proposed service enhancement would not be available for individuals with disabilities if not for the New Freedom Program. Recipients or subrecipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as "new" and then receive New Freedom funds for those services.